



Janice Rich
Mesa County Clerk and Recorder

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Amy Storm, Chief Deputy Clerk
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CLERK TO THE BOARD

Mesa County Courthouse ~544 Rood
P.O. Box 20,000
Grand Jct., CO 81502-5006
(970) 244-1896 Fax (970) 256-1588

ELECTIONS DIVISION

Mesa County Courthouse ~544 Rood
P.O. Box 20,000
Grand Jct., CO 81502-5009
(970) 244-1662 Fax (970) 255-5039

MOTOR VEHICLE DIVISION

Mesa Mall ~ 2424 Hwy 6 & 50, Unit 414
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Grand Jct., CO 81502-5008
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RECORDING DIVISION

Mesa County Courthouse ~544 Rood
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January 11, 2008

The Honorable Mike Coffman
Colorado Secretary of State
1700 Broadway, Suite 200
Denver, CO 80290

Via facsimile to: 303-869-4860

Via email to: secretary @sos.state.co.us

RE: Reconsideration – C.R.S. 1-5-621

Dear Secretary Coffman:

The Mesa County Clerk & Recorder is submitting this letter as a formal request for reconsideration of the Secretary of State's decision to decertify the electronic or electromechanical voting system known as Election Systems and Software, Inc. (ES&S) that was issued on December 17, 2007.

C.R.S. 1-5-621(6), states:

“Within thirty days after receiving notice from the secretary of state of the decertification of an electronic or electromechanical voting system, a political subdivision or provider of a voting system that is decertified may request in writing that the secretary of state reconsider its decision to decertify the electronic or electromechanical voting system. Upon receipt of the request, the secretary of state shall hold a public hearing to reconsider the decision to decertify the system. Any interested party may submit testimony or documentation in support of or in opposition to the decision to decertify the system. Following the hearing, the secretary of state may affirm or reverse the decision.”

~Motor Vehicle Branch Offices ~

Clifton
Fruita
Orchard Mesa

Peachtree Shopping Center
Fruita Civic Center
Mesa County Fairgrounds

3225 I-70 Bus Loop, Unit A2
325 E. Aspen
2775 Hwy 50

Clifton, CO 81520
Fruita, CO 81521
Grand Jct., CO 81503

(970) 434-3830
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The ES&S voting system was certified for use in Colorado in 2005 and 2006, and was subsequently used by both Mesa and Jefferson Counties to conduct successful federal, state and local elections. The ES&S voting system has a proven track record in these Colorado counties and other jurisdictions around the nation.

The ES&S voting system meets the statutory provisions of C.R.S. 1-5-608.5, having been tested by an independent testing authority and certified by the Election Assistance Commission. This system was then certified by Secretary of State for use in the 2005, 2006 and 2007 elections.

The Mesa County Clerk & Recorder, as the designated election official, has a statutory obligation outlined in part at C.R.S. 1-5-610, to cause a sufficient number of recorders or devices to be delivered to each election precinct in which an electronic voting system is to be used. Given that Mesa County has demonstrated confidence and satisfaction in the ES&S voting system that has been in use in Mesa County since 2001, your determination to decertify this voting system appears to be counterproductive to continued successful elections being conducted in Mesa County and other parts of Colorado.

The ES&S voting system meets or exceeds the statutory functional requirements pursuant to C.R.S. 1-5-611 and 1-5-615, in addition to the 2002 Voting System Standards. The system can be demonstrated to meet all of those functional requirements.

The Mesa County taxpayers have invested tremendous resources as well as HAVA funds in the acquisition of the ES&S voting system beginning with the punch card buyout in 2002. The Secretary is reminded that elections conducted in Mesa County, including those conducted with the ES&S voting system, have been fair, accurate, successful and transparently conducted.

Specifically, Mesa County Clerk & Recorder believes that the following portions of your decision were in error and request your reconsideration:

1. The decertification of the Unity 3.0.1.1 (Amendment A) consisting of the following modules: Audit Manager version 7.3.0.0; Election Data Manager version 7.4.4.0; ESS Image Manager version 7.4.2.0; iVotronic Image Manager version 2.0.1.0; Hardware Programming Manager version 5.2.4.0; Election Reporting Manager 7.1.2.1. The “major factors or deficiencies” identified are erroneous or may be mitigated or overcome (once the full extent of the deficiency is known). We request the Unity 3.0.1.1 (Amendment A) be recertified.
2. The decertification of the M650 Central County Optical Scanner version 2.1.0.0 (Green Light Only). The “major factors or deficiencies” identified are erroneous due in large part because of the certification team’s inability to complete basic ballot run testing. The “major factors or deficiencies” identified may also be overcome with existing county security plans. We request the M650 Central Count Optical Scanner version 2.1.0.0 (Green Light Only) be recertified.

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3. The decertification of the iVotronic ADA w/ 3-button Direct Record Electronic Device version 9.1.6.2. The “major factors or deficiencies” identified are erroneous or may be mitigated or overcome with existing county security plans. We request the iVotronic ADA w/ 3-button Direct Record Electronic Device version 9.1.6.2 be recertified.
4. The decertification of the iVotronic non-ADA Direct Record Electronic Device version 9.1.6.2. The “major factors or deficiencies” identified are erroneous due in large part because of the certification team’s inability to complete basic ballot run testing. Some of the “major factors or deficiencies” identified may also be overcome with existing county security plans. We request the iVotronic non-ADA Direct Record Electronic Device version 9.1.6.2 be recertified.
5. The M100 Precinct Optical Scanner version 5.2.1.0. The “major factors or deficiencies” identified are erroneous due in large part because of the certification team’s inability to complete basic ballot run testing. Some of the “major factors or deficiencies” identified may also be overcome with existing county security plans. We request the M100 Precinct Optical Scanner version 5.2.1.0 be recertified.
6. We request the following conditions be reconsidered and lifted as we believe they are erroneous and may also be overcome with existing county security plans:
 - a. Referencing the 2007-CDOS-ESS-001-0403 ELECTION SYSTEMS & SOFTWARE PROJECT OVERVIEW – Global Condition numbers 7 and 8; M650 Condition numbers 2 and 4; M100 Condition number 3; and iVotronic Condition numbers 1 and 8.

The Mesa County Clerk & Recorder requests your reconsideration of the decision to decertify the ES&S voting system as well as the conditions placed upon the system should it be re-certified. This request for reconsideration should include but may not be limited to the items specified above. Additionally, the Mesa County Clerk & Recorder requests that the public hearing the Secretary of State is required to hold be conducted at a venue in Mesa County. This Mesa County venue will allow the Clerk & Recorder Election staff more ready access to equipment, software and documentation that will be provided as testimony in the hearing.

Respectfully,



Janice Rich,
Mesa County Clerk & Recorder

(courtesy copies provided, next page)

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cc: Bill Hobbs, Colorado Deputy Secretary
Holly Lowder, Colorado Elections Director
Amy Storm, Mesa County Chief Deputy
Sheila Reiner, Mesa County Elections Director
Jon Peacock, Mesa County Administrator
Mesa County Board of County Commissioners
Lyle Dechant, Mesa County Attorney
Josh Penry, Colorado State Senator
Bernie Buescher, Colorado State Representative
Steve King, Colorado State Representative
David Balmer, Colorado State Representative
Tim Hallett, ES&S
Steve Pearson, ES&S